

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CAROL MORSE, BECKY NELLOS,
SANDY MOROWITZ, and
other similarly-situated individuals,

Plaintiffs,

-against-

ALPINE ACCESS, INC., and
SYKES ENTERPISES, INC.,
Jointly and Severally as,

Defendants.

Index No. 5:17-CV-235[BKS/ATB]

ORDER DISMISSING
WITH PREJUDICE OPT-IN
PLAINTIFF SHAWNEE STEELE'S
CLAIMS UNDER THE FAIR LABOR
STANDARDS ACT

WHEREAS, on August 29, 2017, Magistrate Judge Andrew T. Baxter so-ordered the Parties' Stipulation Regarding Protocol for Dismissal of Plaintiffs with Prejudice for Failure to Respond to Discovery ("Dismissal Protocol") (DKT 52); and,

WHEREAS, on March 3, 2017, Opt-in Plaintiff Shawnee Steele ("Plaintiff Steele") filed with the Court a Consent to Join this Fair Labor Standards Act ("FLSA") case (DKT 6-1); and,

WHEREAS, on September 5, 2017, Defendants served upon Plaintiff Steele requests for written discovery, including Defendants' Requests for the Production of Documents and Defendants' First Set of Interrogatories, which responses and objections were due on or before October 5, 2017; and,

WHEREAS, Plaintiff Steele failed to respond to Defendants' requests for written discovery on or before October 5, 2017; and,

WHEREAS, pursuant to the Dismissal Protocol, Plaintiffs' counsel on October 17, 2017 informed Defendants' counsel that Plaintiffs' counsel on October 17, 2017 sent to Plaintiff Steele a letter informing her that (1) she failed to respond to Defendants' requests for written discovery; (2) she is obligated to engage in discovery as part of her obligations as an opt-in Plaintiff; and (3)

she has thirty (30) days from the date of such correspondence, or until November 16, 2017, to respond to Defendants' requests for written discovery, the failure of which may result in the dismissal with prejudice of Plaintiff Steele's FLSA claims; and,

WHEREAS, Plaintiff Steele has failed to respond or object to Defendants' requests for written discovery within thirty (30) days of the date of the correspondence from Plaintiffs' counsel; and,

WHEREAS, the Parties have not agreed to an extension of Plaintiff Steele's time to respond to Defendants' request for written discovery;

IT IS HEREBY ORDERED, that the Fair Labor Standards Act claims of Opt-in Plaintiff Shawnee Steele in the above-captioned action be dismissed in their entirety, with prejudice, pursuant to the Parties' agreed-upon Dismissal Protocol (DKT 52), and without costs, disbursements or attorneys' fees to any party.

Dated: November 17, 2017

LITTLER MENDELSON, P.C.

By: /s Andrew J. Voss
Andrew J. Voss (admitted *pro hac vice*)
80 South 8th Street
Suite 1300
Minneapolis, MN 55402
612.630.1000 (office)

Attorneys for Defendants

IT IS SO ORDERED:

Brenda K. Sannes
Brenda K. Sannes
U.S. District Judge

Dated: November 27, 2017
Syracuse, NY